

# **THE PAPERWORK REDUCTION ACT WHAT YOU NEED TO DO BEFORE COLLECTING INFORMATION FROM THE PUBLIC**

## **GUIDANCE FROM THE NOAA CLEARANCE OFFICER**

### **1. What is the Paperwork Reduction Act About?**

Your office cannot ask the public to provide it with information just because you have decided that you need the information. In response to public complaints about the burden of Federal paperwork, the Paperwork Reduction Act (PRA) and its implementing regulations require OMB clearance for any planned information collections. This document attempts to explain what types of collections require clearance and the procedures involved in obtaining the clearances. **Clearances are need for voluntary collections as well as for mandatory ones.**

### **2. What Information Collections Need Clearance?**

An information collection needs clearance if you doing any of the following:

- ! You obtain facts or opinions from ten or more persons by the use of standard questions presented in forms, telephone or personal interviews, World-Wide-Web Home Pages, requests for narrative responses to questions, or almost any other means; **OR** if you require any information to be submitted in response to a rule of general applicability, **regardless** of the number of respondents expected. A rule is usually of "general applicability" unless it is specially addressed at named entities (ask for guidance on this). Any World-Wide-Web survey is presumed to involve more than ten people.
- ! You require members of the public to provide information to the general public or to some third party.
- ! You impose any requirements to label or mark items (e.g. boxes of fish, fishing gear, etc.) or vessels (e.g. vessel identification numbers).
- ! You require any use of technological methods to monitor public compliance with government requirements, as well as to automated collection techniques. Plans to put transponders on fishing vessels to help track their location, for instance, now need PRA clearance.

OMB is using an extremely broad definition of "information requirement", especially when contained in a regulation, so it is safest to assume that any action collecting information from or on the public needs PRA clearance unless a determination to the contrary has been made by clearance personnel.

### **3. Who are "Persons" Under the PRA?**

In the PRA the term persons includes more than individual people.

- ! The term "persons" includes corporations, universities, state and local agencies, associations, etc., as well as individuals. Foreign citizens or companies must also be counted as "persons". You do not need to obtain a clearance for a collection aimed at Federal agencies unless the information will be used for general statistical purposes.

#### **4. Who Must Request the OMB Clearance?**

Clearance must be requested by the "sponsor" of the collection. You are regarded as the sponsor if:

- ! The information being gathered is for your use, even if it is gathered by a contractor or another Federal or State agency;
- ! You pay someone to collect specific information; or
- ! You require that information be submitted or disclosed to anyone else.

#### **5. What About Information Collected by Grantees?**

You are the sponsor of an information collection conducted by a grantee if the grant is specifically given to conduct an information collection and/or you must approve any plans for an information collection. No clearance is needed if grantees, on their own, decide to use an information collection to achieve a broader goal defined in the grant language.

#### **6. What About Information Gathered by a State Agency?**

The National Marine Fisheries Service often relies upon data collected by a state agency. Numerous cooperative statistics agreements have been established. Such an approach has minimized the public and private costs of data collection by avoiding Federal duplication of existing state activities. The applicability of clearance requirements to these collections depends upon the circumstances of the collection.

OMB policy is that the Federal government imposes a burden (i.e., triggers PRA approval) when it causes another entity to impose or request a collection of information to meet a Federal request or requirement. Specific tests are used by OMB to determine whether data collections by a State under a cooperative agreement with NMFS are subject to clearance requirements.

A cooperative agreement does not trigger the PRA if:

- ! The State already gathers the information in question for its own use, and you are just gaining access to it by making Federal data available to the State;
- ! The State is instituting a new collection as a result of an agreement with NOAA to avoid the duplication of data-gathering efforts, but the State acts under its own authority and will use the information obtained for its own purposes, not just provide it to NOAA; OR
- ! Any Federal money given to the State is for processing fishery data, or continuing its current collection efforts, and does not constitute payment for conducting specified information collections.

A cooperative agreement triggers the PRA if:

- ! You specifically request the State to institute a data collection for Federal use; or
- ! You give money to a State for the express purpose of collecting specific types of fishery data, or retain approval authority for any collection conducted.

Determination of the need for OMB approval of state-collected data should be made early in the Fishery Management Plan process. If requested, the NOAA Clearance Officer will help the sponsoring office to determine, during the draft FMP or amendment phase, if OMB approval is needed.

## 7. How Do You Make a Clearance Request?

The process for making a request depends upon whether or not a proposed rule is involved.

**a. Clearance Requests for New Collections Contained in a Proposed Rule:** If a proposed rule contains an information collection or information requirement that needs clearance under the PRA, a clearance request needs to be submitted to OMB on or before the date the proposed rule is published in the Federal Register. **This is vital: publication of your proposed rule will be delayed if you have not anticipated and planned for preparing an associated PRA request.** Consult with the NOAA Clearance Officer about whether your actions trigger the PRA or not.

Once OMB receives the request it has 60 days to review and act upon it, and except for special emergency submissions they are prohibited from acting for the first 30 days in order to give time for public comment. So the OMB review process takes from 30-60 days, and the latter is normal.

The guidance for making a PRA request is available from this Web site (see [Guidance](#)). Status reports on the main NOAA PRA site allow you to follow the progress of your submission, but you will be informed when OMB approved or disapproves your clearance request.

**b. Clearance Requests for Collections NOT Contained in a Proposed Rule:** This is a lengthy process. It applies to new collections and to renewals of existing clearances. If you have an approved collection, the NOAA Clearance Officer will let you know when the renewal process needs to begin. You should plan on the process taking at least 4 months, and 5 is more likely. The steps are:

- ! You need to send the NOAA Clearance Officer the information needed to publish a Federal Register Notice that informs the public of your intent to ask for clearance for a collection and that solicits comments for 60 days. The information needed is identified on this Web site (see [Guidance](#)).
- ! The NOAA Clearance Officer arranges publication of the notice and informs you of the publication date and when a clearance request can be submitted.
- ! You submit the clearance request to the NOAA Clearance Officer. You can find the instructions for making a submission from this Web site (see [Guidance](#)). The actual

submission cannot be made to OMB until the 60 day comment period has ended, and there is no way of reducing the comment period, but you can get your request processed through NOAA prior to the end of the 60 days. The request is cleared at the Department level before going to OMB.

- ! After receiving the submission OMB lets it sit for 30 days to allow for additional public comment. They are prohibited by law from acting for 30 days.
- ! The NOAA Clearance Officer will inform you when OMB approves or disapproves the clearance request. Various tracking reports on the NOAA PRA Web site allow you to follow the status of the request through the process.

## **8. What If I Don't Have Time for the Normal Clearance Process?**

The PRA recognizes that the normal clearance process doesn't fit all situations. There is a provision for an "Emergency Submission". It removes the need to have any public comment period, and OMB is supposed to act within a time frame requested by the agency. An emergency approval is limited to six months, so for an on-going collection a regular clearance process needs to be started immediately after emergency approval is received.

Emergency procedures by-pass one of the prime objectives of the normal PRA clearance process, which is allowing the public ample time for comment before the government conducts an information collection. Because of this, emergency requests should be limited to unforeseeable situations and/or situations where the delays in obtaining regular clearance would have adverse affects on the public or natural resources. The embarrassment of the agency is not a justification; so if you made promises you cannot keep because you failed to plan properly, you should plan on being embarrassed and not request an emergency clearance.

## **9. How Do I Address the PRA in Rulemakings?**

Any rulemaking containing a proposed or approved information collection must address the PRA in the classification section of the preamble. Specific guidance on the wording can be found on this Web site.

## **10. What do You Need to Do After Getting PRA Clearance?**

The PRA requires that you provide the public with certain information about your clearance request. The details are described in the instructions for making a request. If OMB approves the request you must make sure that this information is actually incorporated into your collection.

## **11. What Do I Need to Do if I Want to Change My collection After Obtaining OMB Clearance?**

It depends. You can make minor changes to a collection without having to obtain additional OMB approval, but the changes must really be minor. You need OMB approval (though the complete clearance process) if you are adding to the number of respondents involved or if you

are adding substantial questions (even if you are dropping other questions so that the overall burden imposed is unchanged). Ask the NOAA Clearance Officer for advice.

## **12. Who Can Provide Me with Advice and Assistance?**

This guidance was prepared by the NOAA Clearance Officer, Richard Roberts of OCIO/PPA1. My role is to help answer any questions that you may have on clearance requirements, to provide you with the guidance needed to prepare and submit a clearance request when that is necessary, to ensure that the submission made meets OMB's standards for approval, and to inform you of OMB action and what final steps may be needed to comply with OMB requirements. My phone number is 301-713-3525, ext. 115; my facsimile number is 301-713-3554; and my E-Mail address is [rick.roberts@noaa.gov](mailto:rick.roberts@noaa.gov).